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**JANICE K. BREWER
SECRETARY OF STATE**

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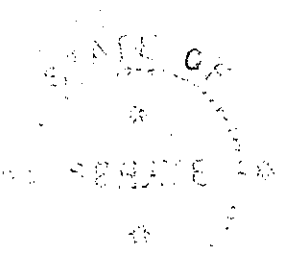
CHAPTER 312

SENATE BILL 1274

AN ACT

AMENDING SECTION 28-1383, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 307, SECTION 6; REPEALING SECTION 28-1383, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 4; AMENDING SECTIONS 28-1385, 28-1387 AND 28-1402, ARIZONA REVISED STATUTES; AMENDING SECTION 28-3319, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 312, SECTION 12; BLENDING MULTIPLE ENACTMENTS; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-1383, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 307, section 6, is amended to read:

4 28-1383. Aggravated driving or actual physical control while
5 under the influence; violation; classification;
6 definition

7 A. A person is guilty of aggravated driving or actual physical control
8 while under the influence of intoxicating liquor or drugs if the person does
9 any of the following:

10 1. Commits a violation of section 28-1381, section 28-1382 or this
11 section while the person's driver license or privilege to drive is suspended,
12 canceled, revoked or refused or while a restriction is placed on the person's
13 driver license or privilege to drive as a result of violating section 28-1381
14 or 28-1382 or under section 28-1385.

15 2. Within a period of sixty months commits a third or subsequent
16 violation of section 28-1381, section 28-1382 or this section or is convicted
17 of a violation of section 28-1381, section 28-1382 or this section and has
18 previously been convicted of any combination of convictions of section
19 28-1381, section 28-1382 or this section or acts in another jurisdiction that
20 if committed in this state would be a violation of section 28-1381, section
21 28-1382 or this section.

22 3. While a person under fifteen years of age is in the vehicle,
23 commits a violation of either:

24 (a) Section 28-1381.

25 (b) Section 28-1382.

26 4. WHILE THE PERSON IS ORDERED BY THE COURT OR REQUIRED PURSUANT TO
27 SECTION 28-3319 BY THE DEPARTMENT TO EQUIP ANY MOTOR VEHICLE THE PERSON
28 OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE, DOES EITHER OF THE
29 FOLLOWING:

30 (a) WHILE UNDER ARREST REFUSES TO SUBMIT TO ANY TEST CHOSEN BY A LAW
31 ENFORCEMENT OFFICER PURSUANT TO SECTION 28-1321, SUBSECTION A.

32 (b) COMMITS A VIOLATION OF SECTION 28-1381, SECTION 28-1382 OR THIS
33 SECTION.

34 B. The dates of the commission of the offenses are the determining
35 factor in applying the sixty month provision provided in subsection A,
36 paragraph 2 of this section regardless of the sequence in which the offenses
37 were committed. For the purposes of this section, a third or subsequent
38 violation for which a conviction occurs does not include a conviction for an
39 offense arising out of the same series of acts.

40 C. The notice to a person of the suspension, cancellation, revocation
41 or refusal of a driver license or privilege to drive is effective as provided
42 in section 28-3318 or pursuant to the laws of the state issuing the license.

43 D. A person is not eligible for probation, pardon, commutation or
44 suspension of sentence or release on any other basis until the person has

1 served not less than four months in prison if the person is convicted under
2 either of the following:

3 1. Subsection A, paragraph 1 of this section.

4 2. Subsection A, paragraph 2 of this section and within a sixty month
5 period has been convicted of two prior violations of section 28-1381, section
6 28-1382 or this section, or any combination of those sections, or acts in
7 another jurisdiction that if committed in this state would be a violation of
8 section 28-1381, section 28-1382 or this section.

9 E. A person who is convicted under subsection A, paragraph 2 of this
10 section and who within a sixty month period has been convicted of three or
11 more prior violations of section 28-1381, section 28-1382 or this section, or
12 any combination of those sections, or acts in another jurisdiction that if
13 committed in this state would be a violation of section 28-1381, section
14 28-1382 or this section is not eligible for probation, pardon, commutation or
15 suspension of sentence or release on any other basis until the person has
16 served not less than eight months in prison.

17 ~~F. In addition to any other penalty provided by law, A person who is~~
18 ~~convicted under subsection A, paragraph 3, subdivision (a) of this section~~
19 ~~shall be sentenced to SERVE at least the minimum sentence TERM OF~~
20 ~~INCARCERATION required pursuant to section 28-1381. , except that if a~~
21 ~~person has been convicted of at least two prior violations of section~~
22 ~~28-1381, section 28-1382 or this section, or any combination of those~~
23 ~~sections, or convicted of at least two prior acts in another jurisdiction~~
24 ~~that if committed in this state would be violations of section 28-1381,~~
25 ~~section 28-1382 or this section, or any combination of those sections, within~~
26 ~~a sixty month period, the person shall be sentenced to serve at least the~~
27 ~~minimum sentence required pursuant to this section.~~

28 ~~G. In addition to any other penalty provided by law, A person who is~~
29 ~~convicted under subsection A, paragraph 3, subdivision (b) of this section~~
30 ~~shall be sentenced to SERVE at least the minimum sentence TERM OF~~
31 ~~INCARCERATION required pursuant to section 28-1382. , except that if a~~
32 ~~person has been convicted of at least two prior violations of section~~
33 ~~28-1381, section 28-1382 or this section, or any combination of those~~
34 ~~sections, or convicted of at least two prior acts in another jurisdiction~~
35 ~~that if committed in this state would be a violation of section 28-1381,~~
36 ~~section 28-1382 or this section, or any combination of those sections, within~~
37 ~~a sixty month period, the person shall be sentenced to serve at least the~~
38 ~~minimum sentence required pursuant to this section.~~

39 H. A person who is convicted of a violation of this section shall
40 attend and complete alcohol or other drug screening, education or treatment
41 from an approved facility. If the person fails to comply with this
42 subsection, and is placed on probation, in addition to the provisions of
43 section 13-901 the court may order that the person be incarcerated as a term
44 of probation as follows:

1 1. For a person sentenced pursuant to subsection D of this section,
2 for an individual period of not more than four months and a total period of
3 not more than one year.

4 2. For a person sentenced pursuant to subsection E of this section,
5 for an individual period of not more than eight months and a total period of
6 not more than two years.

7 I. The time that a person spends in custody pursuant to subsection H
8 of this section shall not be counted towards the sentence imposed if the
9 person's probation is revoked and the person is sentenced to prison after
10 revocation of probation.

11 J. ON A CONVICTION FOR A VIOLATION OF THIS SECTION, the court:

12 1. Shall report the conviction to the department. On receipt of the
13 report, the department shall revoke the driving privilege of the person. The
14 department shall not issue the person a new driver license within three years
15 of the date of the conviction and, for a conviction of a violation of
16 subsection A, paragraph 1, ~~or~~ 2 OR 4 or paragraph 3, subdivision (b) of this
17 section, shall require the person to equip any motor vehicle the person
18 operates with a certified ignition interlock device pursuant to section
19 28-3319. In addition, the court may order the person to equip any motor
20 vehicle the person operates with a certified ignition interlock device for
21 more than twelve months beginning on the date of reinstatement of the
22 person's driving privilege following a suspension or revocation or on the
23 date of the department's receipt of the report of conviction, whichever
24 occurs later. The person who operates a motor vehicle with a certified
25 ignition interlock device under this paragraph shall comply with article 5 of
26 this chapter.

27 2. In addition to any other penalty prescribed by law, shall order the
28 person to pay an additional assessment of two hundred fifty dollars. If the
29 conviction occurred in the superior court or a justice court, the court shall
30 transmit the monies received pursuant to this paragraph to the county
31 treasurer. If the conviction occurred in a municipal court, the court shall
32 transmit the monies received pursuant to this paragraph to the city
33 treasurer. The city or county treasurer shall transmit the monies received
34 to the state treasurer. The state treasurer shall deposit the monies
35 received in the driving under the influence abatement fund established by
36 section 28-1304. Any fine imposed for a violation of this section and any
37 assessments, restitution and incarceration costs shall be paid before the
38 assessment prescribed in this paragraph.

39 3. Shall order the person to pay a fine of not less than seven hundred
40 fifty dollars.

41 4. In addition to any other penalty prescribed by law, shall order the
42 person to pay an additional assessment of one thousand five hundred dollars
43 to be deposited by the state treasurer in the prison construction and
44 operations fund established by section 41-1651. This assessment is not
45 subject to any surcharge. If the conviction occurred in the superior court

1 or a justice court, the court shall transmit the assessed monies to the
2 county treasurer. If the conviction occurred in a municipal court, the court
3 shall transmit the assessed monies to the city treasurer. The city or county
4 treasurer shall transmit the monies received to the state treasurer.

5 5. In addition to any other penalty prescribed by law, shall order the
6 person to pay an additional assessment of one thousand five hundred dollars
7 to be deposited by the state treasurer in the state general fund. This
8 assessment is not subject to any surcharge. If the conviction occurred in
9 the superior court or a justice court, the court shall transmit the assessed
10 monies to the county treasurer. If the conviction occurred in a municipal
11 court, the court shall transmit the assessed monies to the city treasurer.
12 The city or county treasurer shall transmit the monies received to the state
13 treasurer.

14 K. AFTER COMPLETING THE PERIOD OF SUSPENSION REQUIRED BY SECTION
15 28-1385, A PERSON WHOSE DRIVING PRIVILEGE IS REVOKED FOR A VIOLATION OF
16 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION MAY APPLY TO THE DEPARTMENT FOR A
17 SPECIAL IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION
18 28-1401.

19 ~~K~~ L. Aggravated driving or actual physical control while under the
20 influence of intoxicating liquor or drugs committed under:

21 1. Subsection A, paragraph 1 or 2 OR PARAGRAPH 4, SUBDIVISION (b) of
22 this section is a class 4 felony.

23 2. Subsection A, paragraph 3 OR PARAGRAPH 4, SUBDIVISION (a) of this
24 section is a class 6 felony.

25 ~~L~~ M. For the purposes of this section, "suspension, cancellation,
26 revocation or refusal" means any suspension, cancellation, revocation or
27 refusal.

28 Sec. 2. Repeal

29 Section 28-1383, Arizona Revised Statutes, as amended by Laws 2005,
30 chapter 312, section 4, is repealed.

31 Sec. 3. Section 28-1385, Arizona Revised Statutes, is amended to read:

32 28-1385. Administrative license suspension for driving under
33 the influence; report; hearing; summary review

34 A. A law enforcement officer shall forward to the department a
35 certified report as prescribed in subsection B of this section, subject to
36 the penalty for perjury prescribed by section 28-1561, if both of the
37 following occur:

38 1. The officer arrests a person for a violation of section 4-244,
39 paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

40 2. The person submits to a blood or breath alcohol test permitted by
41 section 28-1321, the results of which indicate either:

42 (a) 0.08 or more alcohol concentration in the person's blood or
43 breath.

1 (b) 0.04 or more alcohol concentration in the person's blood or breath
2 if the person was driving or in actual physical control of a commercial motor
3 vehicle.

4 B. The officer shall make the certified report required by subsection
5 A of this section on forms supplied or approved by the department. The
6 report shall state information that is relevant to the enforcement action,
7 including:

8 1. Information that adequately identifies the arrested person.

9 2. A statement of the officer's grounds for belief that the person was
10 driving or in actual physical control of a motor vehicle in violation of
11 section 4-244, paragraph 33, section 28-1381 or section 28-1382.

12 3. A statement that the person was arrested for a violation of section
13 4-244, paragraph 33, section 28-1381, section 28-1382 or section 28-1383.

14 4. A report of the results of the chemical test that was administered.

15 C. The officer shall also serve an order of suspension on the person
16 on behalf of the department. The order of suspension:

17 1. Is effective fifteen days after the date it is served.

18 2. Shall require the immediate surrender of any license or permit to
19 drive that is issued by this state and that is in the possession or control
20 of the person.

21 3. Shall contain information concerning the right to a summary review
22 and hearing, including information concerning the hearing as required by
23 section 28-1321, subsections G and H.

24 4. Shall be accompanied by printed forms ready to mail to the
25 department that the person may fill out and sign to indicate the person's
26 desire for a hearing.

27 5. Shall be entered on the department's records on receipt of the
28 report by the officer and a copy of the order of suspension.

29 D. If the license or permit is not surrendered pursuant to subsection
30 C of this section, the officer shall state the reason for the
31 nonsurrender. If a valid license or permit is surrendered, the officer shall
32 issue a temporary driving permit that is valid for fifteen days. The officer
33 shall forward a copy of the completed order of suspension, a copy of any
34 completed temporary permit and any driver license or permit taken into
35 possession under this section to the department within five days after the
36 issuance of the order of suspension along with the report.

37 E. The department shall suspend the affected person's license or
38 permit to drive or right to apply for a license or permit or any nonresident
39 operating privilege for not less than ninety consecutive days from that date.

40 F. Notwithstanding subsections A through E of this section, the
41 department shall suspend the driving privileges of the person described in
42 subsection A of this section for not less than thirty consecutive days and
43 shall restrict the driving privileges of the person for not less than sixty
44 consecutive additional days to travel between the person's place of
45 employment and residence and during specified periods of time while at

1 employment, to travel between the person's place of residence and the
2 person's secondary or postsecondary school, according to the person's
3 employment or educational schedule, to travel between the person's place of
4 residence and the office of the person's probation officer for scheduled
5 appointments or to travel between the person's place of residence and a
6 SCREENING, EDUCATION OR treatment facility for scheduled appointments if the
7 person:

8 1. Did not cause serious physical injury as defined in section 13-105
9 to another person during the course of conduct out of which the current
10 action arose.

11 2. Has not been convicted of a violation of section 28-1381, 28-1382
12 or 28-1383 within sixty months of the date of commission of the acts out of
13 which the current action arose. The dates of commission of the acts are the
14 determining factor in applying the sixty month provision.

15 3. Has not had the person's privilege to drive suspended pursuant to
16 this section or section 28-1321 within sixty months of the date of commission
17 of the acts out of which the current action arose.

18 G. If the department receives only the report of the results of the
19 blood or breath alcohol test and the results indicate 0.08 or more alcohol
20 concentration in the person's blood or breath, or show a blood or breath
21 alcohol concentration of 0.04 or more and the person was driving or in actual
22 physical control of a commercial motor vehicle, the department shall notify
23 the person named in the report in writing sent by mail that fifteen days
24 after the date of issuance of the notice the department will suspend the
25 person's license or permit, driving privilege or nonresident driving
26 privilege. The notice shall also state that the department will provide an
27 opportunity for a hearing and administrative review if the person requests a
28 hearing or review in writing and the request is received by the department
29 within fifteen days after the notice is sent.

30 H. A timely request for a hearing stays the suspension until a hearing
31 is held, except that the department shall not return any surrendered license
32 or permit to the person but may issue temporary permits to drive that expire
33 no later than when the department has made its final decision. If the person
34 is a resident without a license or permit or has an expired license or
35 permit, the department may allow the person to apply for a license or
36 permit. If the department determines the person is otherwise entitled to the
37 license or permit, the department shall issue, but retain, the license or
38 permit, subject to this section. All hearings requested under this section
39 shall be conducted in the same manner and under the same conditions as
40 provided in section 28-3306.

41 I. For the purposes of this section, the scope of the hearing shall
42 include only the following issues:

43 1. Whether the officer had reasonable grounds to believe the person
44 was driving or was in actual physical control of a motor vehicle while under
45 the influence of intoxicating liquor.

1 2. Whether the person was placed under arrest for a violation of
2 section 4-244, paragraph 33, section 28-1381, section 28-1382 or section
3 28-1383.

4 3. Whether a test was taken, the results of which indicated the
5 alcohol concentration in the person's blood or breath at the time the test
6 was administered of either:

7 (a) 0.08 or more.

8 (b) 0.04 or more if the person was driving or in actual physical
9 control of a commercial motor vehicle.

10 4. Whether the testing method used was valid and reliable.

11 5. Whether the test results were accurately evaluated.

12 J. The results of the blood or breath alcohol test shall be admitted
13 on establishing the requirements in section 28-1323 or 28-1326.

14 K. If the department determines at the hearing to suspend the affected
15 person's privilege to operate a motor vehicle, the suspension provided in
16 this section is effective fifteen days after giving written notice of the
17 suspension, except that the department may issue or extend a temporary
18 license that expires on the effective date of the suspension. If the person
19 is a resident without a license or permit or has an expired license or permit
20 to operate a motor vehicle in this state, the department shall deny the
21 issuance of a license or permit to the person for not less than ninety
22 consecutive days.

23 L. A person may apply for a summary review of an order issued pursuant
24 to this section instead of a hearing at any time before the effective date of
25 the order. The person shall submit the application in writing to any
26 department driver license examining office together with any written
27 explanation as to why the department should not suspend the driving
28 privilege. The agent of the department receiving the notice shall issue to
29 the person an additional driving permit that expires twenty days from the
30 date the request is received. The department shall review all reports
31 submitted by the officer and any written explanation submitted by the person
32 and shall determine if the order of suspension should be sustained or
33 cancelled. The department shall not hold a hearing, and the review is not
34 subject to title 41, chapter 6. The department shall notify the person of
35 its decision before the temporary driving permit expires.

36 M. If the suspension or determination that there should be a denial of
37 issuance is not sustained after a hearing or review, the ruling is not
38 admissible in and does not have any effect on any civil or criminal court
39 proceeding.

40 N. If it has been determined under the procedures of this section that
41 a nonresident's privilege to operate a motor vehicle in this state has been
42 suspended, the department shall give information in writing of the action
43 taken to the motor vehicle administrator of the state of the person's
44 residence and of any state in which the person has a license.

1 1. Between the person's place of employment and residence during
2 specified periods of time while at employment.

3 2. Between the person's place of residence, the person's place of
4 employment and the person's secondary or postsecondary school according to
5 the person's employment or educational schedule.

6 3. Between the person's place of residence and a SCREENING, EDUCATION
7 OR treatment or screening facility for scheduled appointments.

8 4. Between the person's place of residence and the office of the
9 person's probation officer for scheduled appointments.

10 5. Between the person's place of residence and the office of a
11 physician or other health care professional.

12 6. Between the person's place of residence and a certified ignition
13 interlock device service facility.

14 B. The department may only issue a special ignition interlock
15 restricted driver license to an applicant who is otherwise qualified by law.

16 C. ~~In the eleventh month following the initial date of installation of~~
17 ~~a certified ignition interlock device, and each eleventh month thereafter~~ For
18 as long as the person maintains a functioning certified ignition interlock
19 device in the vehicle pursuant to THIS chapter 4 of this title, each TIME AN
20 INSTALLER OBTAINS INFORMATION RECORDED BY A CERTIFIED IGNITION INTERLOCK
21 DEVICE THE installer shall electronically provide in a form prescribed by the
22 department the following information ~~recorded by the certified ignition~~
23 ~~interlock device:~~

24 1. Any tampering or circumvention.

25 2. Any failure to provide proof of compliance or inspection of the
26 certified ignition interlock device as prescribed in section 28-1461.

27 3. Any attempts to operate the vehicle with an alcohol concentration
28 exceeding the presumptive limit as prescribed in section 28-1381, subsection
29 G, paragraph 3, or if the person is under twenty-one years of age, attempts
30 to operate the vehicle with any spirituous liquor in the person's body.

31 D. The department may extend the special ignition interlock restricted
32 driver license and the certified ignition interlock device period if the
33 department has reasonable grounds to believe that any of the following
34 applies:

35 1. The person tampered with the certified ignition interlock device.

36 2. The person attempted to operate the vehicle with an alcohol
37 concentration exceeding the presumptive limit as prescribed in section
38 28-1381, subsection G, paragraph 3, or if the person is under twenty-one
39 years of age, the person attempted to operate the vehicle with any spirituous
40 liquor in the person's body, three or more times during the period of license
41 restriction or limitation.

42 3. The person failed to provide proof of compliance or inspection as
43 prescribed in section 28-1461.

44 E. If the special ignition interlock restricted license is extended
45 pursuant to subsection D of this section, the limitations prescribed in

1 Sec. 4. Section 28-1387, Arizona Revised Statutes, is amended to read:
2 28-1387. Prior convictions; alcohol or other drug screening,
3 education and treatment; license suspension;
4 supervised probation; civil liability; procedures

5 A. The court shall allow the allegation of a prior conviction or any
6 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
7 an act in another jurisdiction that if committed in this state would be a
8 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
9 before the date the case is actually tried and may allow the allegation of a
10 prior conviction or any other pending charge of a violation of section
11 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
12 committed in this state would be a violation of section 28-1381, 28-1382 or
13 28-1383 filed at any time before the date the case is actually tried if this
14 state makes available to the defendant when the allegation is filed a copy of
15 any information obtained concerning the prior conviction or other pending
16 charge. Any conviction may be used to enhance another conviction
17 irrespective of the dates on which the offenses occurred within the sixty
18 month provision. For the purposes of this article, an order of a juvenile
19 court adjudicating a person delinquent is equivalent to a conviction.

20 B. In addition to any other penalties prescribed by law, the judge
21 shall order a person who is convicted of a violation of section 28-1381 or
22 28-1382 to complete alcohol or other drug screening that is provided by a
23 facility approved by the department of health services or a probation
24 department. If a judge determines that the person requires further alcohol
25 or other drug education or treatment, the person may be required pursuant to
26 court order to obtain alcohol or other drug education or treatment under the
27 court's supervision from an approved facility. The judge may review an
28 education or treatment determination at the request of the state, the
29 defendant or the probation officer or on the judge's initiative. The person
30 shall pay the costs of the screening, education or treatment unless, after
31 considering the person's ability to pay all or part of the costs, the court
32 waives all or part of the costs. If a person is referred to a screening,
33 education or treatment facility, the facility shall report to the court
34 whether the person has successfully completed the screening, education or
35 treatment program.

36 C. After a person who is sentenced pursuant to section 28-1381,
37 subsection I has served twenty-four consecutive hours in jail or after a
38 person who is sentenced pursuant to section 28-1381, subsection K or section
39 28-1382, subsection D or F has served forty-eight consecutive hours in jail
40 and after the court receives confirmation that the person is employed or is a
41 student, the court may provide in the sentence that the defendant, if the
42 defendant is employed or is a student and can continue the defendant's
43 employment or schooling, may continue the employment or schooling for not
44 more than twelve hours a day nor more than five days a week. The person
45 shall spend the remaining day, days or parts of days in jail until the

1 sentence is served and shall be allowed out of jail only long enough to
2 complete the actual hours of employment or schooling.

3 D. Unless the license of a person convicted under section 28-1381 or
4 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
5 department on receipt of the abstract of conviction of a violation of section
6 28-1381 or 28-1382 shall suspend the license of the affected person for not
7 less than ninety consecutive days.

8 E. When the department receives notification that the person meets the
9 criteria provided in section 28-1385, subsection F, the department shall
10 suspend the driving privileges of the person for not less than thirty
11 consecutive days and shall restrict the driving privileges of the person for
12 not less than sixty consecutive additional days to travel between any of the
13 following:

14 1. The person's place of employment and residence and during specified
15 periods of time while at employment.

16 2. The person's place of residence and the person's secondary or
17 postsecondary school, according to the person's employment or educational
18 schedule.

19 3. The person's place of residence and a SCREENING, EDUCATION OR
20 treatment facility for scheduled appointments.

21 4. The person's place of residence and the office of the person's
22 probation officer for scheduled appointments.

23 F. If a person is placed on probation for violating section 28-1381 or
24 28-1382, the probation shall be supervised unless the court finds that
25 supervised probation is not necessary or the court does not have supervisory
26 probation services.

27 G. Any political subdivision processing or using the services of a
28 person ordered to perform community restitution pursuant to section 28-1381
29 or 28-1382 does not incur any civil liability to the person ordered to
30 perform community restitution as a result of these activities unless the
31 political subdivision or its agent or employee acts with gross negligence.

32 H. Except for another violation of this article, the state shall not
33 dismiss a charge of violating any provision of this article unless there is
34 an insufficient legal or factual basis to pursue that charge.

35 Sec. 5. Section 28-1402, Arizona Revised Statutes, is amended to read:

36 28-1402. Issuance of special ignition interlock restricted
37 driver license; restrictions; extension

38 A. On application pursuant to section 28-1401, subsection A the
39 department may, and pursuant to section 28-1401, subsection C the department
40 shall, issue a special ignition interlock restricted driver license that only
41 allows a person whose class D or class G license has been suspended or
42 revoked for a first offense of section 28-1321 or section 28-1383, subsection
43 A, paragraph 3, to operate a motor vehicle that is equipped with a
44 functioning certified ignition interlock device and only as follows:

1 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
2 restrictive period of the license ends.

3 F. Except as provided in section 28-1463, if the department suspends,
4 revokes, cancels or otherwise rescinds a person's special ignition interlock
5 restricted license or privilege for any reason, the department shall not
6 issue a new license or reinstate the special ignition interlock restricted
7 driver license during the prescribed period of suspension or revocation or
8 while the person is otherwise ineligible to receive a license.

9 Sec. 6. Section 28-3319, Arizona Revised Statutes, as amended by Laws
10 2005, chapter 312, section 12, is amended to read:

11 28-3319. Action after license suspension, revocation or denial
12 for driving under the influence or refusal of test;
13 ignition interlock device requirement; definition

14 A. If pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
15 or 28-3322 the license of a driver or the driving privilege of a nonresident
16 is suspended or revoked, the department shall not terminate the suspension or
17 revocation or issue a special ignition interlock restricted driver license,
18 if applicable, pursuant to chapter 4, article 3.1 of this title until the
19 person provides proof of financial responsibility pursuant to chapter 9,
20 article 3 of this title.

21 B. If pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
22 or 28-3322, an unlicensed resident is denied a license or permit to operate a
23 motor vehicle, the department shall not issue a license or permit until the
24 person provides proof of financial responsibility pursuant to chapter 9,
25 article 3 of this title.

26 C. If a person whose license or driving privilege is suspended or
27 revoked pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 is ordered,
28 pursuant to section 28-1381, 28-1382 or 28-1383, to attend alcohol or other
29 drug screening, education or treatment, the department shall not either:

30 1. Terminate the suspension or issue a special ignition interlock
31 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
32 of this title until the person provides proof from the treatment facility
33 that the person has completed or is participating satisfactorily in alcohol
34 or other drug screening, education or treatment.

35 2. Issue a new license or a special ignition interlock restricted
36 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
37 title to operate a motor vehicle after the revocation until the person
38 provides proof from the facility that the person has completed the court
39 ordered program.

40 D. On receipt of a report of conviction from a court, the department
41 shall require any motor vehicle the convicted person operates to be equipped
42 with a functioning certified ignition interlock device and the convicted
43 person to meet the requirements prescribed in section 28-1461 for twelve
44 months if any of the following applies:

1 1. The department determines that within a period of sixty months a
2 person is convicted of a second or subsequent violation of section 28-1381
3 with a prior conviction of a violation of section 28-1381 or 28-1382 or an
4 act in another jurisdiction that if committed in this state would be a
5 violation of section 28-1381 or 28-1382.

6 2. The conviction is for a violation of section 28-1382.

7 3. The conviction is for a violation of section 28-1383, subsection A,
8 paragraph 1, ~~or~~ 2 OR 4 or paragraph 3, subdivision (b).

9 E. The twelve month period prescribed in subsection D of this section
10 begins on the date of reinstatement of the person's driving privilege
11 following a suspension or revocation or on the date of the department's
12 receipt of the report of conviction, whichever occurs later.

13 F. A person who is required to equip a motor vehicle with a certified
14 ignition interlock device pursuant to subsection D of this section shall
15 comply with chapter 4, article 5 of this title.

16 G. For the purposes of this section, "certified ignition interlock
17 device" has the same meaning prescribed in section 28-1301.

APPROVED BY THE GOVERNOR JUNE 5, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 5, 2006.

